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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,422	09/04/2003	Niraj Vasishtha	113631	7624

25944 7590 10/24/2005

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

RAZA, SAIRA B

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/654,422	Applicant(s) VASISHTHA ET AL.	
	Examiner Saira Raza	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 21-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, Claims 7-20 drawn to the microencapsulated material in the reply filed on September 15, 2005 is acknowledged. The traversal is on the ground(s) that a search burden does not exist and that the product and process claims should be examined together. This is not found persuasive because, in reference to the argument that a serious search burden does not exist, the examiner has shown that due to the different classification the searches are not coextensive, hence a search burden does exist. In reference to the argument regarding rejoinder, if the product becomes allowable then the issue of rejoining the process will be taken up.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to one of ordinary skill in the art if the "additive" is contained in the core component or the shell component.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1711

4. Claims 7-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Munteanu et al. (US Patent No. 4,428,869).

5. In reference to claim 7, Munteanu discloses a composition of matter in the shape of a microcapsule comprising of a core component physically entrapped in solid particles (polymer material), which are further entrapped in a suspending agent (structuring agent); wherein the shell component is considered to be the solid particles covered in the suspending agent. The reference discloses various suspending agents such as clay, which decrease oxygen or water permeability (Col. 6, Lines 38-47; Col. 15, Line 55 to Col. 17, Line 17; Claim 1, Example I). Specifically, in Example I, Munteanu discloses the creation of a microcapsule where a core fragrance (guaiacwood) is encapsulated in a shell, wherein the shell comprises a polymer material coated by a structuring agent. The solution comprising the structuring agent also includes fragrance (rose). Upon appropriate usage, either (i) hydrolytically or (ii) by means of application of mechanical pressure, the microcapsule produced in Example I is activated and the rose fragrance (of the shell component) is initially detected for five hours, followed by detection of the core guaiacwood fragrance. Hence, it is clear that a core-shell particle was formed and that the fragrance oil was protected from oxidation hence retained its desired activity (Col. 7, Line 40 to Col. 8, Line 64; Example I). Furthermore, the reference discloses that the polymer material encapsulating the core fragrance oil and the suspending agents are held together by physical forces (Col. 17, Lines 3-15).

6. In reference to claims 8 & 9, Munteanu discloses various core components such as fragrance oil, which is inherently oxygen sensitive due to ease of oxidation (Col. 6, Lines 38-47).

7. In reference to claims 10 & 11, Munteanu discloses various polymer materials, comprising the solid particles, such as gelatin (Col. 18, Lines 31-44). Wherein the polymer material, gelatin, comprises pendant ionic groups.

Art Unit: 1711

8. In reference to claims 12, the reference discloses various suspending agents such as clay, which is well known to decrease oxygen or water permeability (Col. 7, Line 40 to Col. 8, Line 17).
9. In reference to claims 13 and 14, Munteanu discloses the inclusion of various additives into the shell component of the microcapsule such as Butylated hydroxytoluene (BHT), an antioxidant, which decreases oxygen or water permeability (Example J and Example I).
10. In reference to claim 15, Munteanu discloses that once the microcapsules are prepared the result is a dry, free-flowing powder (Example IV).
11. In reference to claim 16, Munteanu discloses the formation of a mixture (membrane) wherein the fragrance oil is encapsulated in a continuous solution of the shell component (Example G). Specifically, in Example G, the core is the petitgrain oil and the continuous matrix of the shell component is dextrin and polyethylene glycol.
12. In reference to claim 17, the suspending agent, starch, functions as the entrapment agent forming an interior shell around the core component and the polymer material, cellulose, forms and exterior shell around the interior shell (Col. 18, Line 40; Col. 6, Line 42).
13. In reference to claim 18, the suspending agent, dextrin, is dispersed in the polymer material, polyethylene glycol, resulting in the formation of a microcapsule where the core component is encapsulated inside the shell of the polymer material and the suspending agent (Example G).
14. In reference to claim 19, the polymer material, paraffin wax, forms an interior shell around the core component, and the structuring agent, clay, forms an exterior shell around the interior shell (Example I).
15. In reference to claim 20, the reference discloses that the microencapsulated material can be formed by a variety of processes such as coacervation (Col. 14, Lines 58-62).


Art Unit: 1711

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saira Raza whose telephone number is (571) 272-3553. The examiner can normally be reached on Monday-Friday from 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700